

Press Release

April 18, 2012

RALEIGH, N.C.—On May 8th, North Carolina voters will decide whether to add to the state's constitution a provision which states: "Marriage between a man and a woman is the only domestic legal union that shall be valid or recognized in this State."

Opponents claim that the proposed Amendment ultimately could deny domestic violence protections, child custody and visitation rights, and other legal benefits to thousands of unmarried North Carolina couples. Their concerns are based on a legal analysis of the Amendment published by Maxine Eichner, a law professor at the UNC School of Law.

Campbell law professors Lynn Buzzard, William Woodruff, and Gregory Wallace have published a detailed reply to Eichner. "While the apparent aim of the proposed Amendment could have been stated with greater clarity," they write, "we do not think its terms justify these concerns."

The proposed Amendment, in the three professors' view, would allow legal benefits and protections for unmarried opposite-sex or same-sex couples, so long as those couples are not treated as having a legal status resembling marriage.

This means that, even if the Amendment passes, same-sex couples still would be protected under domestic violence laws, would retain their current rights to child custody and visitation, and could continue to receive public health insurance benefits.

The three professors say that because the Amendment applies to legal "unions" and not "relationships," it bars only same-sex marriage and legal recognition of civil unions or domestic partnerships that resemble marriage unions. "The flaw in Professor Eichner's analysis," they write, "is that she does not give the term 'union' its proper effect in limiting the Amendment's reach."

The professors point out North Carolina domestic violence laws apply to a wide range of persons, including those who are living together, household members, and even couples who are dating, whose protection under the law does not depend upon having a marital or marital-like union with the offender. "Protecting unmarried couples who are dating or living together," they explain, "does not confer on them the legal status of a 'domestic union' and grant them the benefits, rights, and obligations of marriage."

The three law professors do not endorse or oppose Amendment One. They recognize that "there are thoughtful arguments on both sides," and encourage a robust and informed public debate about the proposal. "We believe that North Carolina voters are best served by having accurate information about the Amendment's meaning and likely effects, so that they can properly consider the Amendment's pros and cons and then vote their conscience."

The professors also emphasize that they are speaking as concerned academics, and do not represent the views of Campbell University School of Law or Campbell University.